

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**RECEIVED**

In Re Patent No.: 7,089,605

Date: August 15, 2006

APR 06 2010

Application No.: 10/775,303

Filing Date: February 10, 2004

OFFICE OF PETITIONS

Inventor: Wei-Xin Jiang

Title: TELESCOPING PLUNGER

03/22/2010 MBANCURA 00000007 200090 7089605

Docket No.: 16-584

01 FC:1559 490.00 DA

MAINTENANCE FEE BRANCH
OFFICE OF FINANCE
571-273-6500**NOTIFICATION OF ERROR IN PAYMENT OF SMALL ENTITY FEE
FOR U.S. PAT. NO. 6,968,583**

Dear Sir or Madam:

U.S. Patent No. 7,089,605 (hereinafter "the '605 patent") issued on August 15, 2006.

The assignee of record of the '605 patent is Waxman Consumer Products, Inc. (hereinafter "Waxman").

At the time the '605 patent was filed and through the time of issuance of the '605 patent, Waxman was a small entity, as the total number of employees, including all affiliates, subsidiaries and related companies under the control of Waxman was less than 500 employees. Thus, small entity status was claimed upon filing of the application that matured into the '605 patent and all Patent Office fees associated with the '605 patent were properly paid under small entity status.

On or about April 1, 2008, Waxman was no longer entitled to small entity status. The 3½ year maintenance fee for the '605 patent was due for payment on or before February 15, 2010. The 3½ year maintenance fee for the '605 patent should have been paid under large entity status but inadvertently and without deceptive intent was incorrectly paid under small entity status.

In March 2010, it was discovered that the 3½ year maintenance fee was incorrectly paid as a small entity. The attached verified statement by George L. Pinchak (Exhibit A), a person with knowledge of the facts, explains when the error in payment of the 3½ year maintenance fee for the '605 patent was discovered, which also includes an itemized list of deficiency payments.

The total deficiency of \$490.00 represents the entire amount of fees due resulting from the amount owed for a 3½ year maintenance fee under the January 12, 2009 fee schedule as a large entity, namely, \$980.00, less the amount actually paid as a small entity, namely, \$490.00. Accordingly, authorization is hereby given to deduct payment in the amount of \$490.00 from deposit account number 20-0090. Please charge any additional fees or credit any overpayments to deposit account number 20-0090.

If any fees additional fees are determined to be due in connection with filing this document or any other document required to be filed during the remaining term of the '605 patent, the Commissioner is authorized to charge those fees to deposit account no. 20-0090. If any extension of time is required in connection with filing this document or any document filed during the remaining term of the '605 patent, such petition for extension of time is hereby made and is respectfully requested.

Respectfully submitted,

Date: 3/18/10



George L. Pinchak
Reg. No. 37,697
Tarolli, Sundheim, Covell &
Tummino LLP
1300 East Ninth Street
Suite 1700
Cleveland, OH 44114
(216) 621-2234
(216) 621-4072 Fax
gpinchak@tarolli.com

EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent No.: 7,089,605

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MAINTENANCE FEE BRANCH
OFFICE OF FINANCE
571-273-6500

VERIFIED STATEMENT UNDER 1.28(c) EXPLAINING ERROR IN PAYMENT
OF MAINTENANCE FEE UNDER SMALL ENTITY STATUS
FOR U.S. PAT. NO. 7,089,605

Dear Sir or Madam:

This Verified Statement is made by the person having personal knowledge to explain how the error in good faith occurred and when it was discovered in connection with the accompanying NOTIFICATION OF ERROR IN PAYMENT OF SMALL ENTITY FEE FOR U.S. PAT. NO. 7,089,605, for the above-identified U.S. Patent No. 7,089,605 (hereinafter "the '605 patent").

1. Application Serial No. 10/775,303, which matured into the '605 patent, was filed on February 10, 2004. The '605 patent issued on August 15, 2006. The assignee of record of the '605 patent is Waxman Consumer Products, Inc. (hereinafter "Waxman"). At the time the '605 patent was filed and through the time of issuance of the '605 patent, upon information and belief, Waxman was a small entity, as the total number of employees, including all affiliates, subsidiaries and related companies under the control of Waxman was less than

500 employees. Thus, small entity status was claimed upon filing of the '605 patent and all Patent Office fees associated with the '605 patent were properly paid under small entity status.

2. Upon information and belief, on or about April 1, 2008, Waxman was no longer entitled to small entity status. I became aware of this fact on or about August 2008 as a result of communication with a Waxman employee.

3. The 3½ year maintenance fee for the '605 patent was due for payment on or before February 15, 2010. Waxman was aware that the 3½ year maintenance fee for the '605 patent would need to be paid under large entity status.

4. Our law firm (Tarolli, Sunheim, Covell & Tummino LLP) utilizes Computer Patent Annuity Services, Inc. of Rockville, Maryland (hereinafter "CPI") for payment of certain fees and annuities, including U.S. patent maintenance fees.

5. Upon confirmation by Waxman that the 3½ year annuity should be paid for the '605 patent, Carrie Lewis, my administrative assistant indicated that CPI was to pay the 3½ year maintenance fee for the '605 patent under large entity status. However, inadvertently, no change of entity status from small entity to large entity was filed with the Patent Office for the '605 patent prior to the February 15, 2010 payment due date.

6. Upon information and belief, when CPI attempted to pay the 3½ year maintenance fee on or about February 15, 2010, the entity status for the '605 patent, according to the Patent Office records, was unchanged from its

original small entity status. Accordingly, because of the inadvertent error in not timely filing a change of entity status for the '605 patent prior to the February 15, 2010 due date, the payment by CPI of the 3½ year maintenance fee was inccorectly made for the '605 patent at the small entity rate of \$490.00.

7. On or about March 16, 2010, in reviewing the file and the Maintenance Fee Statement for the '605 patent, I became aware of the inadvertent, incorrect payment of the 3½ year maintenance fee at the small entity rate. The Maintenance Fee Statement indicates a payment of \$490 on February 16, 2010 and further indicates "YES" under the "Small Entity?" heading. Upon becoming aware of the error, I immediately took action to correct the entity status and correct the underpayment of the 3½ year maintenance fee.

8. The following is an itemization of the deficiency payments paid since April 1, 2008, according to the January 12, 2009 fee schedule, and a total deficiency owed resulting from the change to large entity status:

<u>Date</u>	<u>Description</u>	<u>Paid</u>	<u>Actually Owed</u>
February 16, 2010	3.5 Year Maintenance Fee	\$490	\$980
Total deficiency owed: <u>\$490.00.</u>			

9. Any error in paying the above listed fees as a small entity was without deceptive or fraudulent intent and was inadvertent.

10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or

imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the '583 patent.

Date: 3/18/10


George L. Pinchak
Reg. No. 37,697
Tarolli, Sundheim, Covell &
Tummino LLP
1300 East Ninth Street
Suite 1700
Cleveland, OH 44114
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(216) 621-4072 Fax
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